

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
TELEPORT COMMUNICATIONS AMERICA, LLC)
FOR THE APPROVAL OF SAFETY VALVE) PSC DOCKET NO. 14-0408
RELIEF)
(FILED JUNE 1, 2017))

ORDER NO. 9077

AND NOW, this 20th day of June, 2017 the Delaware Public Service Commission (the "Commission") determines and orders the following:

WHEREAS, in PSC Order No. 7183, the Commission noted that, pursuant to 47 U.S.C. §251(e)(1), the Federal Communications Commission ("FCC") crafted general rules relating to the administration of telephone numbering resources, such as area codes (NPA) and central office codes (NXX). See 47 C.F.R. §§52.1 through 52.20. The FCC has designated NeuStar, Inc. ("NeuStar") as its "North American Numbering Plan Administrator" ("NANPA") and its "National Thousands Block Numbering Pool Administrator" ("PA"). In the context of NXX numbers, the FCC looks to NeuStar as its designated NANPA and PA; and

WHEREAS, as described in Order No. 7183, the FCC rules grant to state utility commissions certain monitoring and enforcing powers regarding a carrier's compliance with the federal "utilization" requirements. See 47 C.F.R. §52.15(g)(3)(iv), (g)(4), and (h)(i)(2). A state commission can also act to grant "safety-valve" relief that will allow a carrier -- in limited circumstances -- to obtain additional NXX numbers even if the carrier might not be able to meet the "utilization" and "months-to-exhaust" ("MTE") thresholds normally

required to gain additional numbering resources. See 47 C.F.R. §52.15(g) (4); and

WHEREAS, the Commission initially chose not to become involved in the monitoring (and enforcement) of the utilization requirements surrounding assignments of NXX numbers. See PSC Order No. 6064 (Nov. 19, 2002). Then, after granting exceptions to AT&T Corp. on two separate occasions, the Commission decided to exercise "safety-valve" authority under the FCC rules. See PSC Order Nos. 6238 (Aug. 5, 2003) and 6600 (Apr. 5, 2005); and

WHEREAS, upon AT&T Corp.'s request for more expedited procedures for "safety-valve" applications submitted under 47 C.F.R. § 52.15(g) (4), the Commission adopted the following procedures:

- (a) Any carrier seeking "safety-valve" relief under 47 C.F.R. §52.15(g) (4) shall submit an application to the Commission for the release of blocks of telephone numbers. All such applications shall set forth with specificity: (i) a compelling and permissible need for the requested additional numbering resources (with appropriate references to rules or orders of the Federal Communications Commission); (ii) a description as to why the granting of the particular application will not run the risk that numbering resources will be inefficiently used; and (iii) written evidence that the North American Numbering Plan Administrator or National Pooling Administrator has rejected the carrier's direct request for the additional number resources. An applicant shall also describe what the long-term impact to the numbering resources would be if the particular request is granted; and
- (b) Within ten business days of the receipt of an application complying with the above requirements, the Executive Director or Deputy Director (or other Staff member designated by them) shall review and investigate the numbering resource request and submit a memorandum indicating: (i) the date the application was received; (ii) Staff's findings as to the validity and strength of the applicant's request, specifically as to whether all of the requirements set forth in Paragraph (a) above are sufficiently satisfied; and

(iii) whether Staff advises the requested numbers be released. Staff shall submit this memorandum to the Commission and concurrently send a copy of the same to the carrier applicant and to the North American Numbering Plan Administrator or the National Pooling Administration, as appropriate; and

- (c) Upon receipt of the Staff Memorandum, the Commission shall consider the application and Staff's recommendation at the Commission's next regularly scheduled meeting, provided the Commission's schedule so permits. If the Commission's schedule does not so permit, the application shall be formally considered and acted upon promptly at a later regularly-scheduled Commission meeting.

See Order No. 7183, at ¶ 1; and

WHEREAS, on June 1, 2017, Teleport Communications America, LLC ("Teleport") filed a Safety Valve Relief Application (the "Application"). In the Application, Teleport requests that the Commission approve its request for an additional 1,000 telephone numbers denied by NeuStar on May 24, 2017. Teleport represents that one of its customers¹ has an urgent need for 100 consecutive telephone numbers, not in a 0,2,6 or 9 block; and

WHEREAS, Teleport asserts that it does not have the current inventory to satisfy this customer's specific need for consecutive numbers, not in the 0, 2, 6, 9 block, without obtaining additional numbering resources; and

WHEREAS, Staff reviewed the Application submitted by Teleport within the cited ten-business day timeframe and requested additional information from Teleport to determine whether it met the four-part

¹ Teleport claims that the name of the customer is confidential; nevertheless, the name of the customer is listed in the proprietary version of Application and is also in an attachment to the Staff memorandum dated June 13, 2017.

test established in Order No. 7183. Teleport provided such additional information by verified filings made with the Commission; and

WHEREAS, as set forth in its memorandum to the Commission dated June 13, 2017, Staff believes the Commission should grant Teleport the requested relief because of the following reasons:

(a) Teleport has provided a compelling, permissible, and verified need for the requested additional numbering resources because it has a specific customer request for a block of numbers and does not have current inventory to satisfy this customer's specific requirements. According to the Third Report and Order and Second Order on Recon. in CC Dkt. No. 96-98 and CC Dkt. No. 99-200, at ¶¶ 61-64, 17 FCC Rcd. 252 (2001) (the "Third Order"), a state commission may grant a carrier's safety valve request when the carrier receives a specific customer request for numbering resources that exceeds the carrier's available inventory. Furthermore, if the Commission fails to grant Teleport's requested relief, this could impair Teleport's ability to stay in or expand its business (see ¶ 66 at Third Order); and

(b) Teleport will use the additional numbering resources for only this specific customer for whom the Application was made and agrees to return the numbering resources to NeuStar if the customer request is withdrawn or declined. Teleport further agrees that it will not retain the numbering resources to serve other customers without first meeting the FCC's growth numbering resource requirements per ¶64 of the Third Order; and

(c) Teleport has submitted written evidence that NeuStar rejected Teleport's direct request for the additional number resources; and

(d) Finally, Teleport has stated the long-term impact to the numbering resources will be minimal and will not result in an inefficient use of numbering resources. Further, the company has calculated that the one block of 1,000 consecutive numbers that Teleport is requesting for the specific customer is less than 3% of the total numbers in the Holly Oak Wire center alone. In addition, Teleport suggests that the Holly Oak areal is a mature, developed area of the State of Delaware which cannot reasonably be expected to have significant additional numbering needs. As a result, this request represents a modest percentage of available resources and will not have an adverse impact on the numbering resources in this rate center and/or in the 302 area code. Further, it is projected that the total number of telephone numbers available in the 302 area code will not exhaust until 2027;

**NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE OF NOT
FEWER THAN THREE COMMISSIONERS:**

1. That, for the reasons set forth in this Order and the Staff Memorandum dated June 8, 2017 (which is incorporated by reference herein), the Commission hereby grants the Safety Valve Relief Application filed on June 1, 2017, by Teleport Communications America, LLC ("Teleport").

2. That, pursuant to 47 C.F.R. §52.15(g)(4), the Commission directs NeuStar, Inc., as the North American Numbering Plan Administrator ("NANPA") and the National Thousands Block Numbering

Pool Administrator ("PA"), to issue to Teleport an additional one set of 1,000 numbers. This additional block numbering resource granted by this Order may be initially activated only to serve the requesting customer for whom the request was made. If such customer withdraws its request for such numbers, Teleport shall return the numbering resource to the NANPA/PA and may not retain the DIDs to serve other customers.

3. That the Secretary shall promptly send a copy of this Order to NeuStar, Inc., the Secretary of the Federal Communications Commission, and Teleport.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary